UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/2000/162
28 April 2000

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-sixth session
Agenda item 17 (a)

PROMOTION AND PROTECTION OF HUMAN RIGHTS

STATUS OF THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS

Letter dated 26 April 2000 from the Permanent Representative of Indonesia to the United Nations Office at Geneva addressed to the Chairman of the Commission on Human Rights

On behalf of the delegations listed in annex 2,* I have the honour to request that the joint statement attached as annex 1* be circulated as an official document of the fifty-sixth session of the Commission on Human Rights under agenda item 17 (a).

(Signed) N. Hassan WIRAJUDA
Ambassador
Permanent Representative

* The annexes are reproduced as received, in the language of submission only.

Annex 1

JOINT STATEMENT ON THE QUESTION OF THE DEATH PENALTY

(List of Co-sponsoring Delegations as in Annex 2)

We would like to place on record our disassociation from Commission on Human Rights resolution E/CN.4/2000/L.81 on the question of the death penalty for the following reasons:

(a) There is no international consensus that capital punishment should be abolished. Article 6, paragraph 2, of the International Covenant on Civil and Political Rights states that "sentence of death may be imposed only for the most serious crimes". This view was reflected in the joint statement contained in the document E/1999/113, in which 50 delegations disassociated themselves from a Commission on Human Rights resolution 1999/61. This view was also reflected in the joint statement contained in the ECOSOC document E/1998/95 in which 54 delegations disassociated themselves from the Commission on Human Rights Resolution 1998/8, the joint statement contained in document E/1997/106 in which 34 delegations disassociated themselves from a similar Commission on Human Rights resolution 1997/12 and the joint letter contained in document E/CN.4/1998/156 in which 51 delegations expressed their reservations prior to the adoption of the Commission on Human Rights resolution 1998/8.

(b) At the 54th UNGA in New York, a large majority of delegations disapproved of a draft resolution on the death penalty tabled by the EU. As a result, its co-sponsors decided to withdraw the EU draft resolution. Since this was the situation in the UNGA, which is the main deliberative organ of the United Nations composed of all UN member states, we see no reason why the EU should raise the issue again at the Commission of Human Rights, which is a subsidiary body comprising only 53 members.

(c) In his statement to the plenary of the Rome Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court on 17 July 1998, the President of the Conference

declared that the debate at the Conference on the issue of which penalties should be applied by the Court showed that there is no international consensus on the inclusion or non-inclusion of the death penalty, and further that not including the death penalty in the Rome Statute would not in any way have a legal bearing on national legislations and practices with regard to the death penalty, nor should it be considered as influencing, in the development of customary international law or in any other way, the legality of penalties imposed by national systems for serious crimes.

(d) Capital punishment has often been characterised as a human rights issue in the context of the right of the convicted prisoner to life. However, this must be weighed against the rights of the victims and the right of the community to live in peace and security.

(e) Every State has an inalienable right to choose its political, economic, social, cultural and legal systems, without interference in any form by another State. Furthermore, the purposes and principles of the Charter of the United Nations, in particular, Article 2, paragraph 7, clearly stipulates that nothing in the Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any State. Accordingly, the question of whether to retain or abolish the death penalty should be carefully studied by each State, taking fully into account the sentiments of the people and the state of crime and criminal policy. It is inappropriate to make a universal decision on this question or to propose such action in the forum of an international organisation.

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Annex 2

List of co-signatories: Joint Statement on the Question of Death Penalty

1 Antigua and Barbuda
2 State of Bahrain
3 People's Republic of Bangladesh
4 Barbados
5 Brunei Darussalam
6 Republic of Burundi
7 People's Republic of China
8 Arab Republic of Egypt
9 State of Eritrea
10 Republic of Ghana
11 Republic of Guyana
12 Grenada
13 Republic of Fiji
14 Republic of Indonesia
15 Islamic Republic of Iran
16 Republic of Iraq
17 Jamaica
18 Japan
19 Hashemite Kingdom of Jordan
20 Republic of Kenya
21 Democratic People's Republic of Korea
22 State of Kuwait
23 Republic of Lebanon
24 Republic of Liberia
25 Socialist People's Libyan Arab Jamahiriya
26 Malaysia
27 Republic of Maldives
28 Islamic Republic of Mauritania
29 Mongolia
30 Union of Myanmar
31 Sultanate of Oman
32 Republic of the Philippines
33 State of Qatar
34 Republic of Rwanda
35 Saint Lucia
36 Saint Kitts and Nevis
37 Kingdom of Saudi Arabia
38 Republic of Sierra Leone
39 Republic of Singapore
40 Republic of the Sudan
41 Republic of Suriname
42 Kingdom of Swaziland

43 Arab Republic of Syria
44 United Republic of Tanzania
45 Thailand
46 Republic of Togo
47 Republic of Trinidad and Tobago
48 United Arab Emirates
49 Socialist Republic of Vietnam
50 Republic of Yemen
51 Republic of Zimbabwe

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